

outputting a message from each spare link of each said nodes to the adjacent node to which said each spare link is connected;

identifying the port number of said each node from where said each spare link outputs said message and the port number of the adjacent node connected to said each spare link whereat said message is received;

storing as data, in one location, the respective port numbers of all nodes that have connected thereto at least one spare link via which said message is either sent or received, the identities of said all nodes and the spare links interconnecting said all nodes;

generating from said stored data the topology of all spare links interconnecting all the nodes of said network; and

providing said generated topology of the spare links of said network to an origin node.

REMARKS

By this amendment, claims 1, 3-6, and 8-18 are pending, in which claim 1 is amended.

Care was exercised to avoid the introduction of new matter.

The Office Action mailed August 28, 2002 rejected claims 1, 5, 11, 15, and 16 as obvious under 35 U.S.C. § 103 based on *Shah et al.* (US 5,646,936) in view of *Rogers et al.* (US 6,061,735) and *Liu* (US 5,914,798), claims 3 and 12 as obvious under 35 U.S.C. § 103 based on *Shah et al.* ('936) in view of *Rogers et al.* and *Liu*, and in further view of *Shah et al.* (US 5,636,203), claim 4 as obvious under 35 U.S.C. § 103 based on *Shah et al.* ('936) in view of *Rogers et al.* and *Liu*, and in further view of *Allen et al.* (US 5,768,256), claims 6 and 8 as obvious under 35 U.S.C. § 103 based on *Shah et al.* ('936) in view of *Rogers et al.*, *Liu*, and *Bengston et al.* (US 6,337,846), and claims 9, 10, 13, 14, 17, and 18 as obvious under 35 U.S.C.

§ 103 based on *Shah et al.* ('936) in view of *Rogers et al.* and *Liu*, and in further view of *Bengston et al.* Further, claim 1 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

In response to the indefiniteness rejection, Applicants have corrected the informality per the Examiner's helpful suggestion.

The several obviousness rejections are respectfully traversed, because the references of *Rogers et al.*, *Liu*, *Allen et al.*, and *Bengston et al.* cannot preclude patentability for obviousness in light of the recent enactment of the American Inventors Protection Act (AIPA), Pub. L. 106-113, §4807, effective for all applications filed on or after November 29, 1999. As amended, 35 U.S.C. § 103(c) provides:

(c) Subject matter developed by another person, which qualifies as prior art only under subsection (e), (f), or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention as made, owned by the same person or subject to an obligation of assignment to the same person.

The present application is a CPA filed after the Nov. 29, 1999 enactment date of this provision of the AIPA and is therefore entitled to benefit from the AIPA's prior art exclusion for certain commonly assigned patents. As a continuation application, the present application is accorded the benefit of its parent's filing date, September 11, 1998, which is before the May 9, 2002 issue date of *Rogers et al.*, before June 22, 1999 issue date of *Liu*, before June 16, 1998 issue date of *Allen et al.*, and before January 8, 2002 issue date of *Bengston et al.* Thus, *Rogers et al.*, *Liu*, *Allen et al.*, and *Bengston et al.* would qualify as prior art only under subsections (e), (f), or (g) of § 102. Since the present application and *Rogers et al.*, *Liu*, *Allen et al.*, and *Bengston et al.* are commonly assigned (to MCIWorldcom Inc.), the use of *Rogers et al.*, *Liu*, *Allen et al.*, and *Bengston et al.* in the obviousness rejection is disallowed by law.

The references of *Shah et al.* ('936) and *Shah et al.* ('203) do not individually or in combination satisfy the features of the pending claims 1, 3-6, and 8-18.

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 425-8508 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

DITTHAVONG & CARLSON, P.C.

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Date



Phouphanomketh Ditthavong
Attorney/Agent for Applicant(s)
Reg. No. 44658

10507 Braddock Road
Suite A
Fairfax, VA 22032
Tel. (703) 425-8508
Fax. (703) 425-8518

APPENDIX

1. (Three Times Amended) A method of mapping a topology of the spare capacity of a telecommunications network having a plurality of nodes interconnected with working and spare links, comprising the steps of:

 outputting a message from each spare link of each said nodes to the adjacent node to which said each spare link is connected;

 identifying the port number of said each node from where said each spare link outputs said message and the port number of the adjacent node connected to said each spare link whereat said message is received;

 storing as data, in one location, the respective port numbers of all nodes that have connected thereto at least one spare link via which said message is either sent or received, the identities of said all nodes and the spare links interconnecting said all nodes;

 generating from said stored data the topology of all spare links interconnecting all the nodes of said network; and

 providing said generated topology of the spare links of said network to [the] an origin node.